

## SEC Committee Meeting, July 29, 2020

Dear Chairwoman Martin and Committee members,

My name is Lori Lerner. I was the President of NH WindWatch during the time of significant procedural changes to the SEC Committee, along with major changes to the SEC Statute and Rules. I would like to take a few minutes to share my thoughts regarding some unintended procedural changes which resulted from the Legislative changes adopted back in 2014.

### 1.) \$3,000 Filing fee for Declaratory Ruling

a. Prior to 2014 (adoption of SB245), there was no fee to file a grievance with the SEC Committee. The ordinary citizen had the opportunity to notify the SEC Committee of any failure of an energy facility to comply with the SEC permit and request a hearing on the merits of the grievance.

b. Fast forward to 2020, following the enactment of SB245, a bill intended to IMPROVE the public process. The ordinary citizen must file a grievance with the SEC Administrator, with the expectation the Administrator will evaluate the issue and have it adjudicated through the SEC Committee. If that does not occur, the next avenue is to file a request for a Declaratory Ruling and pay a \$3,000 filing fee for the grievance to be heard by the SEC.

c. The cost to file a grievance with the NH Supreme Court is \$275, yet that avenue is not available to folks living in the shadows of an energy facility, as per the Doctrine of Exhaustion of Administrative Remedies they must exhaust all other options before filing with NH Supreme Court.

d. SB626, which reduces the filing fee to \$300, was submitted to NH General Court and had passed the Senate before COVID and is now sitting in status of "Laid on Table", awaiting House review and approval.

e. I'd like to recommend the SEC Committee reduce the filing fee for the Declaratory Ruling by the authorized 20% (RSA 162-H:8-a III), to offer some relief to the ordinary citizen, while we await the passing of SB626.

### 2.) SEC Website Posting

a. Prior to 2014 (adoption of SB245), ALL communications submitted to the SEC were posted on the SEC website within 12-24 hours.

b. Fast forward to 2020 and the adoption of SB245, a bill intended to improve the public process - communications submitted to the SEC takes days or weeks to be posted to the SEC website, if they are posted at all!

c. Additionally, the communications show a posting date of the date on the correspondence. As an example, a recent communication dated June 18<sup>th</sup> was posted on the SEC website on July 14<sup>th</sup> with a posting date of June 18<sup>th</sup>. Given that there are communications posted on a regular basis, the normal citizen must keep a list of each communication which appears each time the website is reviewed and must manually compare back in time to see if there are any new (predated) posts. This issue can be easily remedied by reverting to the pre-SEC Administrator procedure of using the date the communication is posted (current date) rather than the correspondence date (pre-date) for the website posting date.

d. The current procedure caused me to overlook backdated posts of significant concern. For example, did you know there were 2 state endangered bats killed at AWE? Did you know there was an inoperable turbine which prevented AWE for conducting the sound study?

Thank you for your consideration of these procedural changes.

Sincerely,

Lori Lerner